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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/070,577 | 07/09/2002 | Jordi Galan I Llongueras | 8000-21 | 7171 |

7590 03/22/2004
Jonathan E. Grant
2120 L Street, N.W. Suite 210
Washington, DC 20037

EXAMINER

HURLEY, SHAUN R

| | |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
|----------|--------------|

3765

DATE MAILED: 03/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/070,577

Applicant(s)

GALAN I LLONGUERAS, JORDI

Examiner

Shaun R Hurley

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 July 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 July 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>07/01/02</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to because of the following reasons:

Figure 2 contains four separate figures, which should be identified as such in the Drawings and in the Specification.

Figure 6 contains two separate figures, which should be identified as such in the Drawings and in the Specification.

Figure 7 contains two separate figures, which should be identified as such in the Drawings and in the Specification.

Figures 6 and 7 contain foreign language.

Figure 7, detail "7" shown below should read --17--.

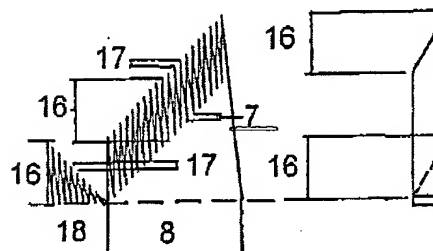


FIG. 7

Figure 6, detail "17" shown below should be the same font so as to be visible.

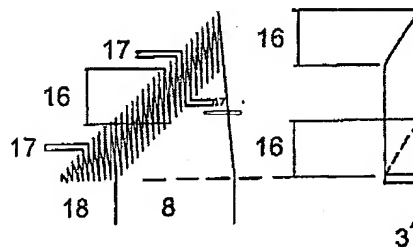


FIG. 6

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2. The drawings are further objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: h, h1, d, D, d', A, C.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

3. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and **generally limited to a single paragraph** on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

4. The disclosure is objected to because of the following informalities:

The specification uses the details "9" and "12" interchangeably, which is incorrect.

Page 6, line 20, detail "13" called "high", which is incorrect.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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6. Regarding claims 2-4, the phrases "depending on" and "preferably" render the claims indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by New et al (3545193).

New teaches a high capacity spool (Figure 8) comprising a central cylindrical tube (yarn would on), a built-in balloon control head (84) closing the upper part of the tube, and a spool base (under yarn, not labeled), and folding system having two consecutive stages of building fill, the second building upon the first (bottle build in Figure 8 starts with a flat bottom, goes up, comes down, goes up, comes down, until achieved diameter achieved at bottom, then next progression down stops above that achieved diameter. As such, that is the building block for subsequent winding, and without break, is the folding system).

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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10. Claims 2-5, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over New et al.

New teaches essentially teaches the invention as discussed above, including a balloon control head having between 1 and 250 shoulders and being made of plastic or aluminum (Column 2 line 62 - Column 3 line 7). New also teaches the relationship of percentage scale between the bobbin and control head, control head and ring, ring and bobbin, and empty space requirement. While he specifically teaches the necessity of such percentage scaled measurements, he fails to specifically teach the myriad of specific, unsubstantiated dimensions which Applicant claims. It would have been obvious to one of ordinary skill in the art, in this instance a spinning technician, to utilize the specific dimensions as required. New teaches in column 3, lines 8-19 the control head as being greater than the diameter of the bobbin by 1.5 times. Column 4 line 10 and Column 5 line 1 both, along with Figure 8, teach specific ring sizes in relation to other components of the twister. As such, when taken to the scale as used by Applicant and stated as "depending on the type of material to be spun or twisted and on the progress carried out", would obviously teach the intended concept of percentage scale relation.

The explanation above by Examiner shows that New conceived the concept of percentage scale relation between the bobbin, ring, and control head. While he may not specifically recite the exact dimensions of Applicant, such as the control head having a diameter 100 mm greater than the bobbin, the specification contains no disclosure of either the critical nature of the claimed diameter or any unexpected results arising therefrom, and that as such the 100 mm greater diameter was arbitrary and therefore obvious. Such unsupported size limitation cannot be a basis for patentability, since where patentability is said to be based upon diameter or another

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variable in the claim, the applicant must show that the 100 mm greater diameter is critical. In re Woodruff, 919 F.2d 1575, 1578, 16 USPQ2d 1934 (Fed. Cir. 1990). One having ordinary skill in the art would be able to determine through routine experimentation the ideal dimension for a particular application.

Conclusion

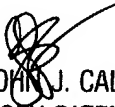
11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Williams et al (114074), Boyd et al (959198), Smith (984043), Freund (2041918), Kowarick (2217371), Netelenbos et al (2672007), Netelenbos et al (2781627), Kartmann (3032960), Schloesser (3104514), Takita (3141286), Piper (3172248), and Kartmann (4307564) all teach what is well known in the art.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shaun R Hurley whose telephone number is (703) 605-1236. The examiner can normally be reached on Mon - Fri, 6:30am - 3:00pm, off every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John J Calvert can be reached on (703) 305-1025. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SRH
09 March 2004


JOHN J. CALVERT
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER